

Serial No.: 09/405,046  
Filed: September 27, 1999

### **REMARKS**

Reconsideration is respectfully requested. Claims 22, 30, 32, 41, 42, 45, 48, 49 and 58-66 are pending. Claims 22, 30, and 42 are amended.

### **Double Patenting**

The Examiner has rejected claims 22, 30, 32, 41, 42, 45, 48, 49 and 58 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3 and 16 of U.S. Patent No. 6,713,045.

A Terminal Disclaimer is filed herewith in view of claims 1, 3 and 16 of U.S. Patent No. 6,713,045. Applicant notes that the filing of a terminal disclaimer is not an admission of the propriety of a rejection which has or may be applied based on nonstatutory double patenting.<sup>1</sup> However, and solely to expedite prosecution, a Terminal Disclaimer is filed to obviate such a rejection.

Accordingly, the Applicant respectfully requests that this rejection be withdrawn.

### **Claim Objection**

Claims 59-66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As noted above, a Terminal Disclaimer is filed herewith in view of U.S. Patent No. 6,713,045, rendering this objection moot.

### **Comments/Notes**

Applicants express gratitude in Examiner's comments and suggestions for the claims. Claims 22, 30, and 42 have been amended according to Examiner's suggestions.

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<sup>1</sup> *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection."

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### CONCLUSION

Applicants respectfully submit that the claims are now in condition for allowance and early notification to that effect is respectfully requested. If the Examiner feels there are further unresolved issues, the Examiner is respectfully requested to phone the undersigned at (415) 442-1000.

Respectfully submitted,

Dated: August 3, 2007

By: /



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